



15-1(a). If leave to amend is granted, the moving party must "file and serve the amended pleading." *Id.* at 15-1(b). The failure to attach a proposed amended pleading has been the basis for denying a motion to amend. See *Trustees of the Teamsters Local 631 Sec. Fund for S. Nev. v. Structure Exhibit & Event Mgm't*, 2010 WL 2953625, at \*7 (D. Nev. July 26, 2010).

Leave to amend a pleading does not give a party permission "to file any old amended [pleading] that it wishe[s] to file." *Dover Steel Co., Inc. v. Hartford Accident & Indem. Co.*, 151 F.R.D. 570, 575 (E.D. Pa. 1993). Accordingly, courts have stricken an amended pleading that differs from the pleading that was proposed. See *Bogdan v. Housing Auth. of the City of Winston-Salem*, 2006 WL 3848693, at \*2-3 (M.D.N.C. 2006) (unpublished disposition).

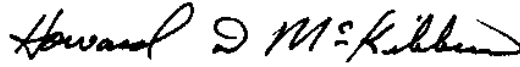
Therefore, the court will grant in part and deny in part plaintiff's motion to strike (#29). The motion is granted insofar as it asks the court to strike those allegations of the amended pleading that differ from the proposed amended pleading. Accordingly, the following allegations contained in defendant's second amended answer and counterclaim are hereby STRICKEN:

1. Counter-Defendant owed a duty of accounting to Counter-Claimant (Fourth Claim for Relief ¶5);
2. Counter-Defendant owed a duty of disclosure to Counter-Claimant (Fourth Claim for Relief ¶6);
3. Counter-Defendant owed a duty of reasonable care and skill to Counter-Claimant (Fourth Claim for Relief ¶7);
4. Counter-Defendant owed a duty to monitor the close of escrow dates on transactions he allegedly worked on (Fourth Claim for Relief ¶8);
5. Counter-Defendant failed to read the purchase agreements (Fourth Claim for Relief ¶12);
6. Counter-Defendant failed to monitor the close of escrow dates (Fourth Claim for Relief ¶13); and
7. Counter-Defendant remained silent after the underlying loan transactions closed and secreted himself from the commission process (Fourth Claim for Relief ¶15).

The motion is denied in all other respects.

**IT IS SO ORDERED.**

DATED: This 18th day of October, 2010.

A handwritten signature in black ink, reading "Howard D. McKibben". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

UNITED STATES DISTRICT JUDGE